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ACTION IO-14

INFO OCT-01 ISO-00 L-03 ACDA-19 CIAE-00 DODE-00 PM-07

INR-10 NSAE-00 NASA-04 NSC-07 RSC-01 SCI-06 OTPE-00

MC-02 NSF-04 AF-10 ARA-16 EA-11 EUR-25 NEA-14 DRC-01

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E.O. 11652: N/A

TAGS: TSPA, PFOR, UN

SUBJECT: OUTER SPACE LEGAL: HIGHLIGHTS OF REMOTE
SENSING DEBATE MAY 27-29

1. FRANCE OPENED LEGAL SUBCOMMITTEE DEBATE ON REMOTE SENSING OF THE EARTH AND ITS ENVIRONMENT BY ANNOUNCING THAT FRANCE AND THE USSR HAD REACHED AGREEMENT ON A COMBINED TEXT OF PRINCIPLES GOVERNING REMOTE SENSING ACTIVITIES. GOF FEELS STRONGLY THAT ADOPTION OF LEGAL PRINCIPLES IS URGENTLY NEEDED AND SHOULD PRECEDE FURTHER DEVELOPMENT OF TECHNOLOGY INTO OPERATIONAL STAGE.

2. ARGENTINA SAID SENSING OF NATURAL RESOURCES SHOULD NOT TAKE PLACE WITHOUT CONSENT OF SENSED STATE AND THAT LATTER SHOULD BE ENTITLED TO PARTICIPATE IN SENSING ACTIVITIES ON MUTUALLY AGREED TERMS. SENSED STATE SHOULD HAVE RIFHT TO ALL DATA ABOUT ITSLEF, AND ADOP-TION OF LEGAL STANDARDS SHOULD PRECEDE TECHNOLOGICAL DEVELOPMENTS, NOT FOLLOW THEM.

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3. SWEDEN SUGGESTED FOCUS OF UN SHOULD BE ON
STUDIES OF ORGANIZATIONAL ALTERNATIVES WITH KEY

QUESTIONS BEING HOW TO GET THE MOST FROM THIS NEW TECHNOLOGY. IF RIGHTS OF STATES OVER RESOURCES COULD NOT BE ADEQUATELY PROTECTED BY ORGANIZATIONAL ARRANGEMENTS, THEN LEGAL STANDARDS MIGHT BE DEVELOPED TO COVER SPECIFIC PROBLEMS. CONTROL OF REMOTE SENSING SHOULD NOT, HOWEVER, BE EXTENDED PURELY THROUGH LEGAL MEANS BECAUSE PRACTICAL REALITIES MUST BE GIVEN GREAT CONSIDERATION. ORGANIZATIONAL ALTERNATIVES, THEREFORE, MUST FIRST BE STUDIED IN DEPTH, AND LEGAL PRINCIPLES USED LATER TO SOLVE REMAINING PROBLEMS.

4. USSR, SAID JOINT FRANCE-SOVIET PRINCIPLES HAD BEEN DEVELOPED OVER SIX-MONTH PERIOD WITH NO SMALL EFFORT AND SUBSTANTIAL MUTUAL ACCOMMODATION OF VIEWS. IN RATHER LOW KEY PRESENTATION, SOV REP NEVERTHELESS SAID AGREEMENT ON INTERNATIONAL REMOTE SENSING PRINCIPLES WAS URGENTLY NEEDED. HE REITERATED PREVIOUSLY-STATED SOVIET VIEW THAT STATE SOVEREIGNTY INCLUDES RIGHT OF CONTROL OVER INFORMATION ABOUT ITS NATURAL RESOURCES.

5. UK MAINTAINED THAT NOTHING PREVENTS STATE FROM OBSERVING ANOTHER STATE FROM BEYOND LIMITS OF NATIONAL JURISDICTION; ACCORDINGLY, SPACE REMOTE SENSING IS NO MORE INFRINGEMENT OF SOVEREIGNTY THAN OBSERVING ANOTHER COUNTRY WITH TELESCOPE FROM HIGH SEAS. UK REP SAID HIS GOVT NOT CONVINCED LEGALLY BINDING INTERNATIONAL INSTRUMENT ON REMOTE SENSING WAS NECESSARY, ALTHOUGH IT WAS OPEN-MINDED ON QUESTION. HE SAID QUESTION OF RULES TO GOVERN REMOTE SENSING SHOULD BE CONSIDERED ON ITS MERITS, IN SPIRIT OF BENEVOLENCE RATHER THAN HOSTILITY AND WITH CARE NOT TO SQUELCH DEVELOPMENT OF TECHNOLOGY OF GREAT POTENTIAL BENEFIT. APPROACH TO LEGAL ISSUES, HE SAID, SHOULD BE RELATED CLOSELY TO TECHNICAL CHARACTERISTICS OF REMOTE SENSING. IN THIS CONNECTION, UK REP SUGGESTED POSSIBILITY OF RECONVENING WORKING GROUP ON REMOTE SENSING EXPRESSLY TO CONSIDER TECHNICAL, ORGANIZATIONAL AND LEGAL ASPECTS AT SAME SESSION.

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6. ITALY CALLED FOR CAUTIOUS APPROACH IN A VERY NEW FIELD OF SPACE ACTIVITY. FREEDOM TO CONDUCT OUTER SPACE ACTIVITIES UNDER OUTER SPACE TREATY, ITALIAN REP SAID, INCLUDED FREEDOM TO LAUNCH REMOTE SENSING SATELLITES. EFFORT IN LEGAL AREA SHOULD BE TOWARD PRINCIPLES, RATHER THAN OVERLY RIGID BINDING RULES; PRINCIPLES SHOULD PROMOTE RATHER THAN INHIBIT TECHNICAL DEVELOPMENT. ITALIAN REP MENTIONED IMPORTANCE OF REGIONAL INTERESTS AND CONSIDERATIONS AND SAID STUDIES OF

SPECIFIC ORGANIZATIONAL MODELS RECOMMENDED BY SCIENTIFIC AND TECHNICAL SUBCOMMITTEE MIGHT BE NEEDED BEFORE LEGAL PRINCIPLES COULD BE FULLY DEVELOPED. ANALYZING DIFFERENT APPROACHES TO POSSIBLE CONTROLS OVER INTERNATIONAL REMOTE SENSING, ITALIAN REP SAW THREE BASIC POSITIONS: (A) ADVOCACY OF A REQUIREMENT FOR CONSENT TO BE SURVEYED (WHICH HE CHARACTERIZED AS "VETO POWER" OVER ACTIVITY); (B) SUPPORT FOR REQUIREMENT OF CONSENT BY SURVEYED STATE TO DISSEMINATION OF DATA CONCERNING IT; (C) ADVOCACY OF FREE AND OPEN ACCESS TO ALL INFORMATION DERIVED FROM RS ACTIVITIES. PRACTICAL OPERATION OF PRINCIPLE UPHOLDING SUCH ACCESS, HE THOUGHT, MUST BE CAREFULLY STUDIED. ITALIAN REP ALSO THOUGHT CANADIAN ANALYSIS OF LEGAL "OPTIONS" CONCERNING INTERNATIONAL REMOTE SENSING ACTIVITY (PROVIDED IN REPLY TO WGRS-INSTIGATED QUESTIONNAIRE) OFFERED INTERESTING AREA FOR STUDY.

7. AUSTRIA MAINTAINED THAT NO SPECIFIC INTERNATIONAL REGIME NOW GOVERNS REMOTE SENSING; ALTHOUGH OST APPLIES, MORE SPECIFIC COVERAGE IS NEEDED. AUSTRIAN REP ADVOCATED PRINCIPLES FIRST AND BINDING INSTRUMENTS LATER.

8. INDIA SAID THERE WAS "CLEAR NEED" NOW FOR BINDING INTERNATIONAL RULES, TO CHECK POSSIBLE MISUSE OF TECHNOLOGY BY SENSING STATES AND TO INSURE RESPECT FOR STATES' SOVEREIGNTY AND THEIR INALIENABLE RIGHTS TO THEIR NATURAL RESOURCES. INDIAN DELOFF CALLED FOR REQUIREMENT OF CONSENT TO CONDUCT RS OVER SENSED STATE WHICH ALSO SHOULD HAVE FULL ACCESS TO LIMITED OFFICIAL USE
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INFORMATION DERIVED. SENSING STATE SHOULD BE REQUIRED TO INFORM UN SYG OF NATURE AND PURPOSE OF EVERY RS MISSION. INDIA ALSO EXPRESSED INTEREST IN CANADIAN "OPTIONS" DOCUMENT.

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9. EGYPT SAID ADEQUATE PROTECTION FOR SENSED STATE SHOULD RECEIVE PRIORITY BUT SHOULD BE BALANCED AGAINST RIGHT AND FREEDOM TO CONDUCT SCIENTIFIC INVESTIGATION.

10. CANADA BRIEFLY REVIEWED "OPTIONS" PAPER WHICH COVERED THREE PHASES OF RS: ACQUISITION, PROCESSING AND DISTRIBUTION. CANADIAN DELOFF NOTED THAT "OPTIONS" DID NOT CONTAIN DRAFT PRINCIPLES, NOR DID IT PURPORT TO BE DEFINITIVE OR EXHAUSTIVE PRESENTATION OF ALL ISSUES RAISED IN AN EXTREMELY DIFFICULT AND COMPLEX AREA OF INTERNATIONAL LAW.

11. MEXICO ALLEGED ABSOLUTE NECESSITY THAT OSLS AT NEXT SESSION START DRAFTING RS TREATY. THIS, MEXICO REP SAID, WAS MOST IMPORTANT TOPIC ON SUBCOMMITTEE AGENDA AND DESERVED PRIORITY. MEXICO ENTHUSIASTICALLY SUPPORTED BRAZILIAN DRAFT TREATY AS WELL AS EARLIER ARGENTINE PROPOSAL WHICH IT REGARDED AS "STEPPING STONE" TOWARD BRAZILIAN TEXT. MEXICAN REP SPECIFICALLY STATED VIEW THAT OST ARTICLE I, ON FREEDOM OF EXPLORATION AND USE OF OUTER SPACE, DOES NOT APPLY TO SPACE ACTIVITIES WHICH ARE EARTH-RELATED.

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12. BRAZIL REP SAID HIS COUNTRY "ALL OUT" IN FAVOR OF CONCEPT OF FREEDOM OF SCIENTIFIC INVESTIGATION IN OUTER SPACE BUT THIS SHOULD NOT APPLY TO ECONOMIC EXPLORATION. BRAZILIAN DRAFT RS TREATY, HE NOTED, REFERRED ONLY TO APPLICATION OF TECHNOLOGY TO NATURAL RESOURCES AND CONTAINED NOTHING ABOUT ENVIRONMENTAL OR OTHER RS ACTIVITIES. WITH REGARD TO "FREE USE OF OUTER SPACE", BRAZIL THOUGHT ARGUMENT COULD NOT JUSTIFY USE OF OUTER SPACE FOR ACTIVITIES

THAT WOULD BE ILLEGAL IF CONDUCTED IN OTHER ENVIRONMENTS (E.G., UNAUTHORIZED AERIAL SURVEYS). BRAZILIAN REP CONTINUED THAT BRAZIL WHOLLY IN FAVOR OF INTERNATIONAL COOPERATION IS RS, BUT WANTED ENTIRE INTERNATIONAL COMMUNITY TO SHARE IN BENEFICIAL RESULTS AND WANTED RIGHTS AND OBLIGATIONS OF ALL STATES SET OUT IN INTERNATIONAL INSTRUMENT. IN COOPERATION CONTEXT, BRAZILIAN REP SAID "EQUAL OPPORTUNITY FOR INTERPRETATION AND USE OF SUCH DATA WAS NOT. REMOTE SENSING, HE CONCLUDED, SHOULD BE GIVEN PRIORITY AND ACKNOWLEDGED AS ESPECIALLY IMPORTANT TOPIC BY OSC. (BRAZILIAN REP'S PRIVATELY-EXPRESSED VIEWS REPORTED GENEVA 3410).

13. US ALT REP PRESENTED US VIEWS AND ANALYSIS OF PROBLEMS IN DEPTH, DRAWING EXTENSIVELY ON STATEMENT BY US REPS TO WGRS EARLIER THIS YEAR REGARDING PRACTICAL CONSEQUENCES OF RESTRICTIVE DATA POLICY. MEETING POINTS MADE BY OTHER DELS, HE ALSO INTER ALIA: (A) MAINTAINED THAT OST APPLIES TO RS ACTIVITIES AND THIS WAS UNDERSTOOD BY TREATY'S DRAFTERS; (B) EXPLICITLY REJECTED NOTION THAT STATES' SOVEREIGN RIGHTS INCLUDE CONTROL OVER INFORMATION CONCERNING THEIR NATURAL RESOURCES. TEXT OF US STATEMENT SENT STATE (IO/UNP) AND NASA.DALE

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